

N.C.L.C



SUPPORTING
INDIVIDUALS AND OUR
COMMUNITY BY
PROVIDING QUALITY
LEGAL SERVICES.

Northwest Community Legal Clinic

SEPTEMBER 2015

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ODSP Work-Related Benefit

Fay Clark, CLW, Kenora

Starting in October 2015, people on ODSP will lose the Work-Related Benefit.

The Work-Related Benefit provides \$100 per month to each person in an ODSP family who has earnings from a job, a training program, or self-employment. It was put into place in 2006 to provide an incentive for people on ODSP to work by recognizing and helping to pay for the ongoing additional costs that are associated with working.

Eliminating the Work-Related Benefit is a direct cut to the

incomes of people on ODSP who already struggle on meager benefits to get by. Losing these funds will restrict their ability to pay for ongoing work-related expenses, like the transportation required to get to work, and undermine their efforts to be part of the labour market despite the many barriers they face.

The provincial government announced this move in Budget 2014 as part of a consolidation of employment-related benefits.

The ODSP Action Coalition, with support from Income Security

Advocacy Centre (ISAC) and others, has been campaigning hard against this benefit cut and has extended its call to action to engage even more ODSP recipients and their allies.

To find out how you can help save the ODSP Work-Related Benefit, visit the legal clinic or ISAC's website at www.incomesecurity.org.

Get Out and Vote-Make Your Voice Count!!

Federal Election October 19, 2015

Yvonne Treffers, CLW, Atikokan

If you are a Canadian citizen you have the opportunity to choose who represents you in federal politics. YOUR vote will help choose Canada's next Prime Minister!

Visit the Elections Canada website at elections.ca or call them toll-free at 1.800.463.6868 for information on how to register to vote; when, where and ways to vote; candidate information; accessibility information and a list of accepted Identification.

Important Dates

September 24, 2015. Voter information cards are mailed to every registered voter.

October 2, 2015. If you don't receive your Voter Information Card in the mail, you may not be registered. Call Elections Canada or visit the website.

October 7, 2015. Election Reminder brochure mailed out to all households.

October 9, 10, 11 and 12, 2015. Advance Polling Stations open. Check your Voter

Information Card or contact Elections Canada for hours and locations.

October 13, 2015. 6 pm deadline for applying to vote by mail or to vote at any Elections Canada office across Canada.

October 19, 2015. Election Day! Bring your Identification. If you haven't registered yet, you can do so at your polling location.

211 is an easy to remember 3-digit non-emergency number that provides information and referrals on related government, community, health and social services. The service is free, confidential, and always answered by a live Information & Referral Specialist, 24 hours a day, 7 days a week.



So when you don't know where to turn in finding the programs and/or services you need, call 2-1-1.

Extending Compassionate Care Benefits

Fay Clark, CLW, Kenora

Employment Insurance, Compassionate Care Benefits are available to workers who are temporarily away from work to care for a sick family member with a "significant risk of death". The benefit currently provides 6 weeks of Employment Insurance benefits to those who qualify. Starting

January 3, 2016, the benefit will be extended to 26 weeks, or 6 months.

There is no guarantee in qualifying for Compassionate Care Benefits. If you are denied benefits, and disagree with the decision, it is important that you respond

within 30 days from the date the decision was communicated to you (this could be over the telephone). Contact Service Canada or the legal clinic for more information.

Treatment of Land Claim Settlement Payments

Laurie Nuttall, Staff Lawyer, Fort Frances

Ontario Works (OW) and Ontario Disability Support Program (ODSP) have issued a joint memorandum advising of a policy change with respect to the treatment of Aboriginal land claim settlement payments. Land claim settlement payments are now fully exempt as both income and assets for social



ODSP recipients were given a 12-month grace period to spend down the payments or to convert them to exempt assets. It should be noted that the exemption only applies to the settlement payment(s), not to any interest earned on the settlement monies.

assistance purposes. Prior to the policy change OW and

Increase in Social Assistance Rates

Fay Clark, CLW, Kenora

The government has announced an increase to Ontario Works and Ontario Disability Support Program benefits on November 3rd, 2015. Single persons on Ontario Works will receive \$305 for Basic Needs, a \$25 increase from the current monthly amount. The couple rate will increase \$5 to \$468 per month, as well as many other small increases in benefits. This change follows the

recommendations of the Commission for the Review of Social Assistance. "The initial changes announced in the Budget were aimed at helping people find jobs, improving incomes and increasing fairness."

The Ministry of Community and Social Services is continuing with consultations on how to improve social

assistance in Ontario. Anyone interested in ensuring the Ontario government continues making positive changes in social assistance is encouraged to contact the legal clinic to get ideas on how this can be achieved.

What to do if Your Appeal for ODSP Benefits is Denied

Sallie Hunt, Staff Lawyer, Kenora

After your hearing before the Social Benefits Tribunal, the Tribunal member will make a written decision within 60 days, deciding whether or not you are “a person with a disability.” The Tribunal member has three options:

To GRANT the Appeal and find that you are “a person with a disability,” and, thus, entitled to ODSP Disability benefits;

To GRANT the Appeal and find that you are “a person with a disability,” and, thus, entitled to ODSP Disability benefits, BUT with a *Medical Review* date (at which time your disability status will be reviewed);

To DENY the Appeal, and, thus, deny you ODSP Disability benefits.

In your case, the Social Benefits Tribunal (SBT) denied your Appeal. This means you are not entitled to ODSP Disability benefits.

A *Reconsideration* is the next level of Appeal. If you feel the SBT made an error in its decision and that you are disabled, you have 30 days, from when you received the SBT Decision, to ask

the SBT to look at your case again, by asking for a *Reconsideration*. To do this, you must complete an *Application for Reconsideration*. It is important to file the *Application for Reconsideration* within the 30-day deadline, otherwise, the SBT could refuse to accept the *Application*, stating that it is beyond the time limit.

Even when the *Application for Reconsideration* is filed within 30 days, the SBT does not always grant a *Reconsideration*. The SBT may agree to reconsider your case, if it appears that there:

- Was a legal or jurisdictional error at the SBT hearing,
- Was procedural unfairness prior to or during the SBT hearing, or
- Are new facts that were not available at the time of the hearing, which could change the decision. These new facts would have to relate to the Date of Disability (i.e., the date of the Director’s Decision).

The SBT will review the *Application for Reconsideration* to determine if a new hearing should be held, and send you a letter with a decision.

If your request for *Reconsideration* is granted, a new hearing will be scheduled and your Appeal will be heard again by a different SBT member. A *Reconsideration* hearing is just the same as the original hearing, in that you will testify as to how your disability affects you, and the Tribunal member will review all documents, including medical records. If your request for *Reconsideration* is denied, that usually means that the decision to deny you ODSP Disability benefits is final and there are no more options. In a few situations, you can choose not to accept the denial decision and further appeal it to Divisional Court. However, an Appeal to the Divisional Court is difficult, unless there are legal reasons for such an appeal.

In certain circumstances, and, upon a merit review, the Legal Clinic will provide representation for an *Application for Reconsideration* and in a *Reconsideration* Appeal. If you would like to pursue an *Application for Reconsideration*, please schedule an appointment to speak with legal staff as soon as possible, keeping in mind the 30-day deadline to request a *Reconsideration*.

Did You Know... Our newsletter is published 3 times per year. January, May and September

Human Rights in Tenancies

Laurie Nuttall, Staff Lawyer, Fort Frances

A tenant's human rights application has led to a province-wide agreement with one of Ontario's largest landlords;

Metcap Living Management Inc. (Metcap). Metcap manages over 20,000 rental units across the province. Metcap has agreed to

follow procedures in order to better accommodate tenants with disabilities in all of the buildings managed by them in Ontario. It is hoped that other landlords will take notice and do the same.



Does your group require accessible meeting space in Fort Frances or Kenora during regular office hours? Please contact our office to discuss

**COMMUNITY SAFETY BBQ
IN FORT FRANCES**



Fort Frances Kiwanis, Rainy River District Substance Abuse Prevention Team and Safe Communities Rainy River District present A Community BBQ Celebrating Safety, Saturday September 12th from 11am to 2 pm at Point Park in Fort Frances. There will be a FREE BBQ, bouncy castles, vendor booths, Emergency Services Displays and MUCH MORE. The entire event is FREE and everyone is welcome!!! For more information 274-8541.



Bankruptcy

Sallie Hunt, Staff Lawyer, Kenora



WHAT IS BANKRUPTCY

Bankruptcy is a process that allows you to ask that personal debts that have accumulated over the years be erased, because you do not have the ability to repay these debts in the foreseeable future. The Federal Government makes the rules for Bankruptcy. Only a Trustee in Bankruptcy can help you if you want to file a claim for Bankruptcy. Trustees in Bankruptcy are chartered accountants that have a special designation. They usually work for chartered accounting companies, such as BDO or MMP, etc.

FILING FOR BANKRUPTCY

Before filing for Bankruptcy, you should meet with a credit counsellor to see if a less drastic option might work for you. Once you decide to file for Bankruptcy, you would meet with a Trustee in Bankruptcy (Trustee) to disclose all of your assets (personal possessions & property, savings, RRSPs, pensions, etc.), all income and debts, and to complete the necessary forms.

Note: If you do not disclose a debt to the Trustee, it will not be included in the Bankruptcy, and

thus, will continue as a debt after the Bankruptcy so you would still owe money for it. As well, certain debts are excluded from Bankruptcy. Once you file for Bankruptcy, the Trustee will let your creditors know. Your debts become frozen, so that interest charges and any wage garnishments or bank seizures are stopped. As well, since creditors cannot continue collecting your debt, collection agencies should stop calling.

DEBTS EXCLUDED FROM BANKRUPTCY

Certain debts are not discharged on bankruptcy. That means that these debts will still exist after the bankruptcy; you will still owe money and still have to deal with them. Traffic tickets, court ordered fines or penalties will continue. As well as continuing to exist, there may be other consequences, such as not being able to renew or obtain a driver's licence.

STUDENT LOANS

Student loans can be included in the bankruptcy if you have not been a student for the past seven years. Since student loans are often government loans, they can be collected by the Canada Revenue Agency (CRA) long after any time limitations have run out. This means that they truly never go away (unless included in a Bankruptcy). The CRA may collect them by withholding income tax refunds or GST rebates, etc.

ASSETS EXCLUDED FROM BANKRUPTCY

Certain assets are excluded from Bankruptcy. You can keep these assets without having to account to the Trustee for them. Clothing, personal goods and furniture are excluded and an inexpensive car may be excluded if it is within the allowable limits. Assets that are not excluded have to be sold with the money going to the Trustee for your creditors. There are some exceptions. For example, if you own a house that has equity in it, the Trustee may decide that you do not have to sell the house, but you might have to repay the value of the equity to the Trustee.

INCOME

Any money coming into the home may be considered income. For example, child



tax benefits are considered income. All family income must be declared when filing monthly income statements with the Trustee. Someone who has declared bankruptcy will continue to receive child benefits (CCTB). While you are in bankruptcy, the Trustee of Bankruptcy will file income

Bankruptcy con't

tax returns on your behalf. If you do not provide the Trustee with timely information/documentation, then filing could be delayed which could affect your CCTB.

COSTS OF FILING

When you file for Bankruptcy, you have to pay the Trustee administrative fees of approximately \$1,600. Often this is paid monthly while you are bankrupt. You will not be discharged from bankruptcy until these fees have been paid in full. You may have to make additional payments on top of the fees.

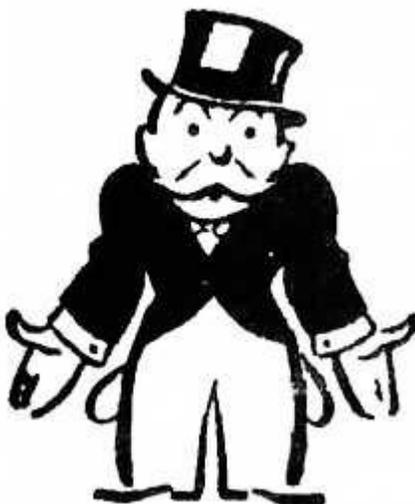
SURPLUS INCOME

Each year The Office of the Superintendent of Bankruptcy sets the surplus income limit. During your Bankruptcy, you have to file income statements showing how much your family income is each month. If in any month your total family income is more than \$200 higher than the surplus income limit, you will have to make an extra payment to the Trustee, in addition to the fees that you are already paying. The Trustee will divide this money among your creditors. Extra payments because of surplus income will extend the time that you are bankrupt.

- If you do everything you are required to do (your duties)
- if your creditors do not object
- if you do not have surplus income of more than \$200/month.

If you have surplus income of more than \$200/month, then you have to wait 21 months. The waiting times are longer for a second bankruptcy.

If a creditor did object then you would go to Court where a Judge would decide whether or not you are to be discharged.



Works or Ontario Disability Support Program (ODSP) and you do not own a house or a vehicle, you may be "judgment proof." This means that creditors may not be able to take you to court for money that is owed. While the debt will continue to be outstanding, if you are "judgment proof," there is little that a creditor or collection agency can do to collect the debt (except annoy you with harassing calls and letters, of course.) Also, if the debt is more than two years old, the debt may be beyond the limitation date. If a debt is beyond a limitation date, a court action cannot be started. Thus, creditors would not be able to take you to court for money that is owed and there would be little that they could do. This would not apply to debts owed to the government, as it has other ways to collect the debt, such as withholding income tax refunds and/or GST rebates or garnishing other government monies.

You can find more information at the following sites:

- Money Problems - <http://www.moneyproblems.ca/>
- BDO Debt Help - <http://www.toronto-debt-help.com/>
- Office of the Superintendent in Bankruptcy - <http://www.ic.gc.ca/eic/site/bsf-osb.nsf/eng/home>

It is important to get legal and/or financial advice about the various consequences before deciding what is your best option.

HOW LONG WILL I BE BANKRUPT?

In a First Time Bankruptcy, you can be automatically discharged after 9 months:

Bankruptcy may not always be the answer. Depending on the amount owed or depending on your situation, it may not make sense to declare Bankruptcy. For example, if your only income is from Ontario

Did You Know... Our newsletter is published 3 times per year. January, May and September



Does your group require accessible meeting space in Fort Frances or Kenora during regular office hours? Please contact our office to discuss



**Supporting individuals and our community
by providing quality legal services.**

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Facebook!



Office Closures

Monday, Sept 7—Labour Day
Monday Oct 12—Thanksgiving Day
Wednesday Nov 11—Remembrance Day
Thurs Dec 24 12:00—Jan 4, 2016

Sub-Offices

Red Lake

Sept 3, Oct 6 & 7, Dec 2 & 3

Ear Falls

Sept 3, Oct 7, Dec 3

Dates are subject to change. Please call
1-800-403-4757 to book an
appointment

Kenora Salvation Army-New drop off Location

Carol Grosset, OM, Kenora

*Effective July 11th, the drop-off
location for all donations to the
Salvation Army located in Kenora*

*changed from Railway Street to 104
Matheson Street South. Donations
to the food banks are always*

*welcome in all communities,
especially peanut butter and
cereals.*

Northern Health Travel Grant Denials are Now Appealable

Fay Clark, CLW, Kenora

If you travel at least 100 km one-way to the nearest OHIP approved medical specialist or health care facility available, you may be eligible for a Northern Travel Grant (NHTG) through the Ministry of Health and Long Term Care.

Approved requests will provide 41 cents per km after a deductible of 100 km, plus up to \$100.00 for

accommodations (with receipts) if you travel more than 200 km each way.

A request for the NHTG must be made within 12-months from the date of travel. If you are denied the NHTG, you can request the newly established NHTG Medical Appeals Committee review your application.

An appeal must be filed, in writing, within 12-months from the date you are denied coverage.

For more information contact the Ministry of Health and Long-Term Care, Claims Services Branch, at (705) 675-4010, or 1 800-461-4006 or your nearest legal clinic.

DISCLAIMER: These articles provide information only and are not to be considered as legal advice. Content reflects the laws that were current at the time of publication and the law may have since changed. Consult your community legal clinic



Consider the environment...

Please recycle this newsletter!